



September 18, 2001

Mr. Marcus W. Norris
City Attorney
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79105-1971

OR2001-4161

Dear Mr. Norris:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 152132.

The City of Amarillo Police Department (the "department") received two separate requests from the same requestor for the same traffic accident report. As information responsive to the requestor's first request is encompassed by his second request, we address both requests under the identification number listed above. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have reviewed the submitted information.

Initially, we note that the information at issue is a peace officer's accident report, completed by a department officer pursuant to chapter 550 of the Transportation Code. Access to accident reports completed pursuant to chapter 550 of the Transportation Code is governed by law other than the Public Information Act (the "Act"). *See* Transp. Code § 550.065(b), (c). A governmental body may not use the Act's exceptions to withhold information that a statute other than the Act makes expressly public. *See* Open Records Decision No. 623 (1994); *see also* Open Records Decision No. 451 (1986) (specific statute that affirmatively requires release of information at issue prevails over litigation exception of the Act); *cf. Houston Chronicle Publ'g Co. v. Woods*, 949 S.W.2d 492 (Tex. App.—Beaumont 1997, orig. proceeding) (concerning public disclosure of affidavits in support of executed search warrants). Therefore, we do not address your claims of exception from disclosure in this case under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code.

Section 550.065(b) of the Transportation Code provides that except as provided by subsection (c), accident reports are privileged and confidential. The Seventy-seventh Legislature amended section 550.065(c)(4) to provide for release of accident reports to a

person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific address or highway or street where the accident occurred. *See* Act of May 22, 2001, 77th Leg., R.S., H.B. 1544, § 5 (to be codified at Transp. Code § 550.065(c)(4)). Under this provision, a law enforcement agency employing a peace officer who made an accident report is required to release a copy of an accident report to a person who provides the law enforcement agency with two or more pieces of information specified by the statute. *See id.* In each of his two requests, the requestor appears to have provided the department with the required information to obtain the accident report. Thus, section 550.065(c)(4) entitles the requestor to a copy of the accident report at issue.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

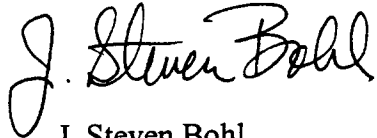
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "J. Steven Bohl". The signature is written in dark ink and is positioned to the left of the printed name.

J. Steven Bohl
Assistant Attorney General
Open Records Division

JSB/sdk

Ref: ID# 152132

Enc: Submitted documents

c: Mr. Gary McAnally
P.O. Box 19544
Amarillo, Texas 79114-1544
(w/o enclosures)